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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,639	09/21/2001	Scott M. Hyde	04844/00010	5215
22910	7590	12/30/2003	EXAMINER	
BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			SILBERMANN, JOANNE	
		ART UNIT	PAPER NUMBER	
		3611		

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 960639 Applicant(s) Hyde et al.
Examiner Silbermann Group Art Unit 3611

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 10-7-03

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1, 2, 4-12, 14-23 is/are pending in the application.

Of the above claim(s) 10-12, 14-18 is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1, 2, 4-9, 19, 21-23 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Interview Summary, PTO-413

Notice of References Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other _____

Office Action Summary

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the leaf spring, the coil spring, and the coating must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Election/Restrictions

2. Claims 10-12, 14-18 and 20 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7, 9, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bigelow et al.

5. Bigelow et al. disclose a clip including face member 22 with a convex bend at a first end pivotably connected to base 23 having a concave bend at a first end and

biasing member (coil spring) 43 urging the first ends together. The surfaces of the first ends are knurled, as shown in Figure 1. The base and face are each a single piece. The second ends of the members comprise mounting portions. Extensions 26 extend away from side edges of each member and include openings 46 and 47.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 4-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow et al.

8. Bigelow et al. do not teach smooth surfaces, however, this is well known in the art. It would have been obvious to a person having ordinary skill in the art to utilize smooth surfaces instead of knurled if it is desired to grip something very fragile.

9. Bigelow et al. do not teach using metal, however, this is old and well known in the art. The examiner takes official notice of badges issued for employees which include metal clips. It would have been obvious to a person having ordinary skill in the art to utilize any well known metal to form the clip since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

10. Bigelow et al. also do not teach a leaf spring, however, this is also seen as an equivalent alternative to a coil spring. It would have been obvious to one of ordinary

skill to choose the appropriate clip for an application since leaf and coil springs are both well known and it appears that either would perform equally well.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow et al. in view of Dymott et al.

12. Bigelow et al. do not teach covering the concave and convex ends, however, this is well known in the art. Dymott et al. teaches a clip having gripping portions covered with covering 6. It would have been obvious to one of ordinary skill to utilize such a covering so as not to damage the article being gripped, as is taught by Dymott et al.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bigelow et al. in view of Ohlson.

14. Bigelow et al. do not teach a circular hole at the second end of the member, however, this is well known in the art. Ohlson teaches a clip including a hole at the second end of the base member 2b (Figure 1). It would have been obvious to one of ordinary skill to utilize such a hole to provide means for attaching display 3 as is taught by Ohlson.

Response to Arguments

15. Applicant's arguments filed October 7, 2003 have been fully considered but they are not persuasive.

16. Applicant argues that Bigelow et al. do not teach an inner face member as described in claim 1. The examiner disagrees. The surface shown in Bigelow et al. is knurled, and reads on claim 1 as described in the rejection.

17. Regarding the smooth base member, it is well known to provide such surfaces (as shown in the rejection regarding the Dymott et al. reference). The composition of the inner surfaces may be smooth or not smooth depending on the intended use of the clip.

18. Applicant argues that Ohlson shows a shaft, not a rivet. However, a rivet is by nature a shaft.

19. Applicant argues that Dymott et al. do not teach or suggest coating the jaws of the clip, however, this is taught in column 1 line 33 of Dymott et al.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tu-Th 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Joanne Silbermann
Primary Examiner
Art Unit 3611

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